

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

WEPAY GLOBAL PAYMENTS LLC,
Plaintiff,

v.

WELLS FARGO BANK, N.A.,
Defendant.

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W-22-CV-00363-ADA-DTG

**REPORT AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

**TO: THE HONORABLE ALAN D ALBRIGHT,
UNITED STATES DISTRICT JUDGE**

This Report and Recommendation is submitted to the Court pursuant to 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72(b), and Rules 1(f) and 4(b) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges. This matter is before the Court on its own motion. The undersigned **RECOMMENDS** that Plaintiff's case be dismissed for want of prosecution.

I. LEGAL STANDARD

Rule 41(b) of the Federal Rules of Civil Procedure allows a court to *sua sponte* dismiss an action for failure to prosecute or failure to comply with the federal rules or any court order. *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998). “This authority flows from the [C]ourt’s inherent power to control its docket and prevent undue delays in the disposition of pending cases.” *Boudwin v. Graystone Ins. Co., Ltd.*, 756 F.2d 399, 401 (5th Cir. 1985) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626 (1962)).

II. DISCUSSION

This Court granted Plaintiff's counsel's motion to withdraw, leaving Plaintiff without counsel. ECF No. 25. Because Plaintiff is an LLC that cannot represent itself, on February 8, 2023, Plaintiff was ordered to retain new counsel within 30 days. ECF No. 25. Plaintiff was warned that failure to obtain counsel would result in the undersigned recommending that this case be dismissed for want of prosecution. Plaintiff has not retained additional counsel. Therefore, the undersigned recommends that this case be dismissed for want of prosecution.

III. RECOMMENDATION

For the above reasons, it is the **RECOMMENDATION** of the United States Magistrate Judge to the United States District Judge that this case be **DISMISSED** for want of prosecution.

IV. OBJECTIONS

The parties may wish to file objections to this Report and Recommendation. Parties filing objections must specifically identify those findings or recommendations to which they object. The District Court need not consider frivolous, conclusive, or general objections. *See Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report. *See 28 U.S.C. § 636(b)(1)(C); Thomas v Arn*, 474 U.S. 140, 150–53 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). Except upon grounds of plain error, failing to object shall further bar the party from appellate review of

unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas*, 474 U.S. at 150–53; *Douglass*, 79 F.3d at 1415.

SIGNED this 13th day of March, 2023.



DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE